

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

PCT

TRANSLATION

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

(PCT Rule 43bis.1)

		Date of mailing (day/month/year)	See form PCT/ISA/210
Applicant's or agent's file reference 04/018K		FOR FURTHER ACTION See paragraph 2 below	
International application No. PCT/EP2005/004919	International filing date (day/month/year) 06.05.2005	Priority date (day/month/year) 10.05.2004	
International Patent Classification (IPC) or both national classification and IPC A22C13/00, B65D65/42			
Applicant KALLE GMBH			

1. This opinion contains indications relating to the following items:

- | | | |
|-------------------------------------|--------------|--|
| <input checked="" type="checkbox"/> | Box No. I | Basis of the opinion |
| <input type="checkbox"/> | Box No. II | Priority |
| <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> | Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> | Box No. VI | Certain documents cited |
| <input type="checkbox"/> | Box No. VII | Certain defects in the international application |
| <input type="checkbox"/> | Box No. VIII | Certain observations on the international application |

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP	Authorized officer
Facsimile No.	Telephone No.

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Box No. I	Basis of this opinion
1.	With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item. <input type="checkbox"/> This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).
2.	With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of: a. type of material <input type="checkbox"/> a sequence listing <input type="checkbox"/> table(s) related to the sequence listing b. format of material <input type="checkbox"/> in written format <input type="checkbox"/> in computer readable form c. time of filing/furnishing <input type="checkbox"/> contained in the international application as filed. <input type="checkbox"/> filed together with the international application in computer readable form. <input type="checkbox"/> furnished subsequently to this Authority for the purposes of search.
3.	<input type="checkbox"/> In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4.	Additional comments:

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Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	
1. Statement		
Novelty (N)	Claims	YES
	1, 16-18 (even in the event of clarification of claims 1, 16, 17)	NO
Inventive step (IS)	Claims	YES
	1-16 (even in the event of clarification of claims 1, 16, 17)	NO
Industrial applicability (IA)	Claims	YES
	1-18	NO
2. Citations and explanations:		
1) Reference is made to the following documents:		
<p>D1: GB-A-1 042 182 (UNION CARBIDE CORPORATION) 14 September 1966 (1966-09-14)</p> <p>D2: WO 00/40092 A (DEXTER SPECIALITY MATERIALS, LTD; WIGHTMAN, ALAN; STONE, JEREMY, JAMES) 13 July 2000 (2000-07-13)</p> <p>D3: EP-A-0 724 834 (OY VISKO AB) 7 August 1996 (1996-08-07)</p> <p>D4: US-A-4 248 900 (HAMMER ET AL) 3 February 1981 (1981-02-03)</p> <p>D5: DE 609 129 C (KALLE & CO. AKT.-GES) 8 February 1935 (1935-02-08)</p>		
2) Lack of clarity and novelty of the independent claims		
<p><u>Preliminary note/lack of clarity:</u> Independent product claim 1 (and also associated method claims 16 and 17 and also use claim 18) define a foodstuff casing serving as sausage casing based on regenerated cellulose having an inner synthetic fibre reinforcement. Document D2 which is already cited by the applicant (and also document D3) disclose foodstuff casings of this type, the fibre reinforcements disclosed there, in addition to cellulose fibres, also comprising synthetic fibres (see, for example, D2, abstract); that is D2 (and also D3) disclose foodstuff casings in accordance with the preamble of claim 1 whose "fibre reinforcement ... (in addition to other components like the already abovementioned cellulose fibres and the like) ... consists of synthetic fibres" as claimed in the characterizing part of claim 1.</p> <p>To this extent the present application does not meet the requirements of PCT Article 33(1), because the subject matter of</p>		

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claim 1, in the light of D2 (or else D3) is not novel within the meaning of PCT Article 33(2) (note: a comparable argument can also be employed with respect to the associated method claims 16, 17 and also use claim 18).

Assumption for further examination of the claims: With respect to the description of the application (see, for example, page 4, paragraph 2), it is obviously clear that the application is directed towards a sausage casing having "purely synthetic" fibre reinforcement, that is a fibre reinforcement which is purely made up of such synthetic fibres or consists of such synthetic fibres. Therefore, further discussion of the claims assumes a product claim 1 clarified in such a manner, and correspondingly clarified claims 16, 17.

Discussion of clarified claims: Claims 1, 16-18 which have been clarified in such a manner, which in accordance with the above preliminary note and assumption define a reinforcement purely consisting of synthetic fibres, also cannot be considered as novel within the meaning of PCT Article 33(2), more precisely in the light of D1.

Reasoning: D1 discloses a tubular "foodstuff casing based on regenerated cellulose having an internal fibre reinforcement" (that is a foodstuff casing which is produced in accordance with the method steps of claims 16 and 17 from the shaping of a fibre reinforcement to the tubular form, charging with viscose solution and subsequent regeneration of the cellulose from the viscose solution; see D1, page 2, line 104-page 3, line 9 and figures); the disclosure of D1 furthermore comprises, in addition to conventional cellulose reinforcement fabrics, also the use of purely synthetic reinforcement fabrics (see D1, page 3; lines 74-88); that is the foodstuff casing based on regenerated cellulose and having fibre reinforcement which is defined by claim 1 and associated method claims 16, 17 (with corresponding clarification), "the fibre reinforcement consisting purely of synthetic fibres", is completely covered by the disclosure of D1 (likewise the use claim 18, especially since the foodstuff casing defined by D1 serves as

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sausage casing; see D1, for example page 1, paragraph 2).

It may thus be stated in summary that even clarified claims 1, 16-18, which define the synthetic makeup of the fibre reinforcement clearly, in the light of D1, cannot be considered novel within the meaning of PCT Article 33(2).

3) Dependent claims 2-15

Dependent claims 2-15 appear merely to define conventional additional measures and do not appear thus to contain any additional features which, in combination with the features of any claim to which they refer, meet the PCT requirements for novelty and inventive step (see for example claim 13 with definition of an additional inner coating that is disclosed, for example, by D4 or D5, to improve peelability); that is the dependent claims are assessed in the context of this opinion as at least not inventive within the meaning of PCT Article 33(3).

4) Further observations

- The set of claims should have only one independent claim per category, and therefore is to comprise only one method claim (see current method claims 16 and 17).

- Optional multiple back references, as are present in claims 4-13 and 15 (see option "foodstuff casing according to ... plurality of the claims ...") are to be avoided/deleted for reasons of clarity, since the back reference to two or more preceding claims leads simultaneously to combinations of features or subject matters which repeatedly comprise, for example, the features of claim 1.